

“(i) such dollar amount, multiplied by  
 “(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 2009’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount shall be rounded to the nearest multiple of \$10,000.

“(4) AGGREGATE DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT.—For purposes of this subsection, the term ‘aggregate deceased spousal unused exclusion amount’ means the lesser of—

“(A) the basic exclusion amount, or

“(B) the sum of the deceased spousal unused exclusion amounts computed with respect to each deceased spouse of the surviving spouse.

“(5) DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT.—For purposes of this subsection, the term ‘deceased spousal unused exclusion amount’ means, with respect to the surviving spouse of any deceased spouse dying after December 31, 2009, the excess (if any) of—

“(A) the basic exclusion amount of the deceased spouse, over

“(B) the amount with respect to which the tentative tax is determined under section 2001(b)(1) on the estate of such deceased spouse.

“(6) SPECIAL RULES.—

“(A) ELECTION REQUIRED.—A deceased spousal unused exclusion amount may not be taken into account by a surviving spouse under paragraph (5) unless the executor of the estate of the deceased spouse files an estate tax return on which such amount is computed and makes an election on such return that such amount may be so taken into account. Such election, once made, shall be irrevocable. No election may be made under this subparagraph if such return is filed after the time prescribed by law (including extensions) for filing such return.

“(B) EXAMINATION OF PRIOR RETURNS AFTER EXPIRATION OF PERIOD OF LIMITATIONS WITH RESPECT TO DECEASED SPOUSAL UNUSED EXCLUSION AMOUNT.—Notwithstanding any period of limitation in section 6501, after the time has expired under section 6501 within which a tax may be assessed under chapter 11 or 12 with respect to a deceased spousal unused exclusion amount, the Secretary may examine a return of the deceased spouse to make determinations with respect to such amount for purposes of carrying out this subsection.

“(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this subsection.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 2505(a) of the Internal Revenue Code of 1986, as amended by section 302(a), is amended to read as follows:

“(1) the applicable credit amount in effect under section 2010(c) which would apply if the donor died as of the end of the calendar year, reduced by”.

(2) Section 2631(c) of such Code is amended by striking “the applicable exclusion amount” and inserting “the basic exclusion amount”.

(3) Section 6018(a)(1) of such Code is amended by striking “applicable exclusion amount” and inserting “basic exclusion amount”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying, generation-skipping transfers, and gifts made, after December 31, 2009.

#### SEC. 304. SPECIAL ELECTION FOR DECEDENTS DYING IN 2010.

In the case of any decedent dying in 2010, the executor of the estate of such decedent may elect to apply the Internal Revenue Code of 1986 without regard to the provisions of, and the amendments made by, this title (other than this section). Such election shall be made at such time and in such manner as the Secretary of the Treasury shall provide.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 4606. Mr. UDALL of New Mexico submitted an amendment intended to be proposed to amendment SA 4594 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table.

SA 4607. Mr. UDALL of New Mexico submitted an amendment intended to be proposed to amendment SA 4594 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4608. Mr. BEGICH (for himself and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4609. Mr. UDALL of Colorado (for himself, Ms. COLLINS, Mr. REID, Mr. SCHUMER, Mr. LIEBERMAN, Mrs. BOXER, Mrs. GILLIBRAND, Mr. SANDERS, Mr. INOUE, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 4594 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4610. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 4594 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4611. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4612. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4594 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4613. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4614. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 4594 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4615. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4616. Mr. UDALL of New Mexico submitted an amendment intended to be proposed to amendment SA 4594 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4617. Mr. FRANKEN submitted an amendment intended to be proposed to amendment SA 4594 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 4606. Mr. UDALL of New Mexico submitted an amendment intended to be proposed to amendment SA 4594 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 243, line 21, strike “The Secretary” and insert “Not later than 1 year after the date of enactment of this Act, and every year thereafter for 5 years, the Secretary”.

On page 243, line 25, insert “and every year thereafter for 5 years,” before “the Secretary shall submit”.

On page 244, between lines 8 and 9, insert the following:

(d) APPROPRIATE ACTION.—If the Secretary determines that the Program has not effectively served women-owned businesses, veteran-owned businesses, or minority-owned businesses, the Secretary may formulate a plan to redress the needs of the affected businesses.

SA 4607. Mr. UDALL of New Mexico submitted an amendment intended to be proposed to amendment SA 4594 proposed by Mr. REID (for Mr. BAUCUS (for himself, Ms. LANDRIEU, and Mr. REID)) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, line 20, insert “and planned outreach efforts to women-owned businesses, veteran-owned businesses, and minority-owned businesses” before “, where appropriate”.

SA 4608. Mr. BEGICH (for himself and Mr. NELSON of Nebraska) submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following: